

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2009-29

DEBORAH MAY McEWAN

22 Great Oaks Blvd., #230

San Jose, California 95119

Certified Public Accountant Certificate

No. CPA 34741

McEWAN & ASSOCIATES, INC.

22 Great Oaks Blvd., #230

San Jose, California 95119

Certified Public Accountancy Corporation

Certificate No. COR 6096


Respondents.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 5th, 2010.

It is so ORDERED April 5th, 2010.



FOR THE CALIFORNIA BOARD OF
ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

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2 ALFREDO TERRAZAS
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8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2009-29

12 **DEBORAH MAY McEWAN**
13 22 Great Oaks Blvd., #230
San Jose, California 95119

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Certified Public Accountant Certificate
15 No. CPA 34741

16 and

17 **McEWAN & ASSOCIATES, INC.**
18 22 Great Oaks Blvd., #230
San Jose, California 95119

19 Certified Public Accountancy Corporation
20 Certificate No. COR 6096

21 Respondents.

22
23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceedings that the following matters are true:

25 **PARTIES**

26
27 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
28 Accountancy. She brought this action solely in her official capacity and is represented in this

1 matter by Edmund G. Brown Jr., Attorney General of the State of California, by Claudia H.
2 Phillips, Deputy Attorney General.

3 2. Respondents Deborah May McEwan and McEwan & Associates, Inc. (Respondents)
4 are representing themselves in this proceeding and have chosen not to exercise their right to be
5 represented by counsel.

6 3. On or about May 7, 1982, the California Board of Accountancy issued Certified
7 Public Accountant Certificate Number CPA 34741 to Deborah May McEwan (Respondent
8 McEwan). The Certified Public Accountant Certificate was in full force and effect at all times
9 relevant to the charges brought in Accusation No. AC-2009-29 and will expire on April 1, 2010,
10 unless renewed.

11 4. On or about May 15, 2008, the California Board of Accountancy issued Certified
12 Public Accountancy Corporation Certificate Number COR 6096 to McEwan & Associates, Inc.
13 (Respondent Corporation). The Certified Public Accountancy Corporation Certificate will expire
14 on June 1, 2010, unless renewed.

15 JURISDICTION

16 5. Accusation No. AC-2009-29 was filed before the California Board of Accountancy
17 (Board), Department of Consumer Affairs, and is currently pending against Respondents. The
18 Accusation and all other statutorily required documents were properly served on Respondents on
19 August 27, 2009. Respondents timely filed their Notice of Defense contesting the Accusation. A
20 copy of Accusation No. AC-2009-29 is attached as Exhibit A and incorporated herein by
21 reference.

22 ADVISEMENT AND WAIVERS

23 6. Respondents have carefully read, and understand, the charges and allegations in
24 Accusation No. AC-2009-29. Respondents have also carefully read, and understand, the effects
25 of this Stipulated Settlement and Disciplinary Order.

26 7. Respondents are fully aware of their legal rights in this matter, including the right to a
27 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
28 their own expense; the right to confront and cross-examine the witnesses against them; the right

1 to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to
2 compel the attendance of witnesses and the production of documents; the right to reconsideration
3 and court review of an adverse decision; and all other rights accorded by the California
4 Administrative Procedure Act and other applicable laws.

5 8. Respondents voluntarily, knowingly, and intelligently waive and give up each and
6 every right set forth above.

7 CULPABILITY

8 9. Respondents admit the truth of each and every charge and allegation in Accusation
9 No. AC-2009-29.

10 10. Respondent McEwan agrees that her Certified Public Accountant Certificate is
11 subject to discipline and she agrees to be bound by the Board's imposition of discipline as set
12 forth in the Disciplinary Order below.

13 11. Respondent Corporation agrees that its Certified Public Accountancy Corporation
14 Certificate is subject to discipline and it agrees to be bound by the Board's imposition of
15 discipline as set forth in the Disciplinary Order below.

16 CIRCUMSTANCES IN MITIGATION

17 12. Respondents have never been the subject of any disciplinary action. They are
18 admitting responsibility at an early stage in the proceedings.

19 CONTINGENCY

20 13. This stipulation shall be subject to approval by the Board. Respondents understand
21 and agree that counsel for Complainant and the staff of the Board may communicate directly with
22 the Board regarding this stipulation and settlement, without notice to or participation by
23 Respondents. By signing the stipulation, Respondents understand and agree that they may not
24 withdraw their agreement or seek to rescind the stipulation prior to the time the Board considers
25 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
26 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
27 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
28 be disqualified from further action by having considered this matter.

14. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

16. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate Number CPA 34741, issued to Respondent Deborah May McEwan, and Certified Public Accountancy Corporation Certificate Number COR 6096, issued to Respondent McEwan & Associates, Inc., are revoked. However, the revocation is stayed and Respondents are placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondents shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

2. **Submit Written Reports.** Respondents shall submit, within ten (10) days of completion of the quarter, written reports to the Board on a form obtained from the Board. The Respondents shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondents' compliance with all the terms and conditions of probation. Respondents shall immediately execute all release of information forms as may be required by the Board or its representatives.

3. **Personal Appearances.** Respondents shall, during the period of probation, appear in

1 person at interviews/meetings as directed by the Board or its designated representatives, provided
2 such notification is accomplished in a timely manner.

3 4. **Comply With Probation.** Respondents shall fully comply with the terms and
4 conditions of the probation imposed by the Board and shall cooperate fully with representatives
5 of the Board of Accountancy in its monitoring and investigation of the Respondents' compliance
6 with probation terms and conditions.

7 5. **Practice Investigation.** Respondents shall be subject to, and shall permit, practice
8 investigation of the Respondents' professional practice. Such a practice investigation shall be
9 conducted by representatives of the Board, provided notification of such review is accomplished
10 in a timely manner.

11 6. **Comply With Citations.** Respondents shall comply with all final orders resulting
12 from citations issued by the Board of Accountancy.

13 7. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
14 Respondents should leave California to reside or practice outside this state, Respondents must
15 notify the Board in writing of the dates of departure and return. Periods of non-California
16 residency or practice outside the state shall not apply to reduction of the probationary period, or
17 of any suspension. No obligation imposed herein, including requirements to file written reports,
18 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
19 affected by such periods of out-of-state residency or practice except at the written direction of the
20 Board.

21 8. **Violation of Probation.** If Respondents violate probation in any respect, the Board,
22 after giving Respondents notice and an opportunity to be heard, may revoke probation and carry
23 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is
24 filed against Respondents during probation, the Board shall have continuing jurisdiction until the
25 matter is final, and the period of probation shall be extended until the matter is final.

26 9. **Completion of Probation.** Upon successful completion of probation, Respondents'
27 licenses will be fully restored.

28 10. **Supervised Practice.** Within thirty (30) days of the effective date of this decision,

1 Respondents shall submit to the Board or its designee for its prior approval a plan of practice that
2 shall be monitored by another CPA or PA who provides periodic reports to the Board or its
3 designee. The supervised practice shall include reviews of all attest engagements prior to their
4 issuance. Respondents shall pay all costs for such monitoring.

5 11. **Library Reference Materials.** Respondents shall have immediate access to, shall
6 use, and shall maintain published materials and/or checklists which are consistent with the
7 practice. Such materials and checklists shall be produced on-site for review by the Board or its
8 designee upon reasonable notice.

9 12. **Ethics Course/Examination.** Respondent McEwan shall take and pass with a score
10 of 90 percent or better a Board approved ethics examination within the period of time prescribed
11 by the Board.

12 If Respondent McEwan fails to pass said examination within the time period provided or
13 within two attempts, Respondents shall so notify the Board and shall cease practice until
14 Respondent McEwan takes and successfully passes said exam, Respondents have submitted proof
15 of same to the Board, and Respondents have been notified by the Board that they may resume
16 practice. Failure to pass the required examination no later than 100 days prior to the termination
17 of probation shall constitute a violation of probation.

18 Notwithstanding any other provision of this probation, failure to take and pass this
19 examination within five years of the effective date of this order constitutes a separate cause for
20 discipline of Respondents' licenses.

21 13. **Continuing Education Courses.** Respondent McEwan shall complete and provide
22 proper documentation of 24 hours of professional education courses in Accounting and Auditing
23 & Fraud within the period of time prescribed by the Board. This shall be in addition to
24 continuing education requirements for relicensing.

25 Failure to satisfactorily complete the required courses as scheduled or failure to complete
26 same no later than 100 days prior to the termination of probation shall constitute a violation of
27 probation.

28 14. **Active License Status.** Respondents shall at all times maintain an active license

1 status with the Board, including during any period of suspension.

2 15. **Cost Reimbursement.** Respondents shall reimburse the Board \$16,617.05 for its
3 investigation and prosecution costs. The payment shall be made within the period of time
4 prescribed by the Board.

5 ACCEPTANCE

6 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
7 stipulation and the effect it will have on my Certified Public Accountant Certificate and Certified
8 Public Accountancy Corporation Certificate. I enter into this Stipulated Settlement and
9 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
10 Decision and Order of the California Board of Accountancy.

11
12 DATED: 2/20/10

Deborah May McEwan
DEBORAH MAY McEWAN,
McEWAN & ASSOCIATES, INC.
Respondents

15 ENDORSEMENT

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
17 submitted for consideration by the California Board of Accountancy of the Department of
18 Consumer Affairs.

19
20 Dated: 2/22/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
ALFREDO TERRAZAS
Senior Assistant Attorney General

Diann Sokoloff
DIANN SOKOLOFF
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. AC2009-29

COPY

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 WILBERT E. BENNETT
Supervising Deputy Attorney General
3 CLAUDIA H. PHILLIPS, State Bar No. 202645
Deputy Attorney General
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7 Attorneys for Complainant

8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

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12 **DEBORAH MAY McEWAN**
22 Great Oaks Blvd., #230
13 San Jose, California 95119

ACCUSATION

14 Certified Public Accountant Certificate
No. CPA 34741

15 and

16 **McEWAN & ASSOCIATES, INC.**
22 Great Oaks Blvd., #230
17 San Jose, California 95119

18 Certified Public Accountancy Corporation
19 Certificate No. COR 6096

20 Respondents.

21
22 Complainant alleges:

23 **PARTIES**

24 1. Patti Bowers (Complainant) brings this Accusation solely in her official
25 capacity as the Executive Officer of the California Board of Accountancy, Department of
26 Consumer Affairs.

27 2. On or about May 7, 1982, the California Board of Accountancy issued
28 Certified Public Accountant Certificate Number CPA 34741 to Deborah May McEwan

COPY

1 (Respondent McEwan). The Certified Public Accountant Certificate was in full force and effect
2 at all times relevant to the charges brought herein and will expire on April 1, 2010, unless
3 renewed.

4 3. On or about May 15, 2008, the California Board of Accountancy issued
5 Certified Public Accountancy Corporation Certificate Number COR 6096 to McEwan &
6 Associates, Inc. (Respondent Corporation). The Certified Public Accountancy Corporation
7 Certificate will expire on June 1, 2010, unless renewed.

8 JURISDICTION

9 4. This Accusation is brought before the California Board of Accountancy
10 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
11 references are to the Business and Professions Code (Code) unless otherwise indicated.

12 STATUTORY AND REGULATORY PROVISIONS

13 5. Section 5050.1(a) of the Code states:

14 "Any person that engages in any act that is the practice of public accountancy in
15 this state consents to the personal, subject matter, and disciplinary jurisdiction of the board. This
16 subdivision is declarative of existing law."

17 6. Section 5035 of the Code states:

18 "'Person' includes individual, partnership, firm, association, limited liability
19 company, or corporation, unless otherwise provided."

20 7. Section 5156 of the Code states:

21 "An accountancy corporation shall not do or fail to do any act the doing of which
22 or the failure to do which would constitute unprofessional conduct under any statute, rule or
23 regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound
24 by such statutes, rules and regulations to the same extent as a person holding a permit under
25 Section 5070 of this code. The board shall have the same powers of suspension, revocation and
26 discipline against an accountancy corporation as are now or hereafter authorized by Section 5100
27 of this code, or by any other similar statute against individual licensees, provided, however, that
28 proceedings against an accountancy corporation shall be conducted in accordance with Chapter 5

1 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code,
2 and the board shall have all the powers granted therein."

3 8. Section 5154 of the Code states:

4 "Except as provided in Section 5079 of this code and in Section 13403 of the
5 Corporations Code, each director, shareholder, and officer of an accountancy corporation shall be
6 a licensed person as defined in the Moscone-Knox Professional Corporation Act, or a person
7 licensed to render the same professional services in the jurisdiction or jurisdictions in which the
8 person practices."

9 9. Section 5079(a)(7) of the Code states, in pertinent part:

10 "Except as permitted by the board in the exercise of its discretion, a person may
11 not become a nonlicensee owner or remain a nonlicensee owner [of a firm engaged in the
12 practice of public accountancy in this state] if the person has . . .

13 "(B) Had a professional license or the right to practice revoked or suspended for
14 reasons other than nonpayment of dues or fees, or has voluntarily surrendered a license or right to
15 practice with disciplinary charges or a disciplinary investigation pending"

16 10. Section 5051 of the Code states:

17 "Except as provided in Sections 5052 and 5053, a person shall be deemed to be
18 engaged in the practice of public accountancy within the meaning and intent of [Chapter 1 of
19 Division 3 (commencing with Section 5000)] if he or she does any of the following:

20 "(a) Holds himself or herself out to the public in any manner as one skilled in the
21 knowledge, science, and practice of accounting, and as qualified and ready to render professional
22 service therein as a public accountant for compensation.

23 "(b) Maintains an office for the transaction of business as a public accountant.

24 "(c) Offers to prospective clients to perform for compensation, or who does
25 perform on behalf of clients for compensation, professional services that involve or require an
26 audit, examination, verification, investigation, certification, presentation, or review of financial
27 transactions and accounting records.

28 "(d) Prepares or certifies for clients reports on audits or examinations of books or

1 records of account, balance sheets, and other financial, accounting and related schedules,
2 exhibits, statements, or reports that are to be used for publication, for the purpose of obtaining
3 credit, for filing with a court of law or with any governmental agency, or for any other purpose.

4 "(e) In general or as an incident to that work, renders professional services to
5 clients for compensation in any or all matters relating to accounting procedure and to the
6 recording, presentation, or certification of financial information or data. . . ."

7 11. Section 5100 of the Code states, in pertinent part:

8 "After notice and hearing the board may revoke, suspend, or refuse to renew any
9 permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5
10 (commencing with Section 5080), or may censure the holder of that permit or certificate for
11 unprofessional conduct that includes, but is not limited to, one or any combination of the
12 following causes:

13

14 "(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in
15 the same or different engagements, for the same or different clients, or any combination of
16 engagements or clients, each resulting in a violation of applicable professional standards that
17 indicate a lack of competency in the practice of public accountancy or in the performance of the
18 bookkeeping operations described in Section 5052.

19

20 "(g) Willful violation of this chapter or any rule or regulation promulgated by the
21 board under the authority granted under this chapter. . . ."

22 12. Section 5062 of the Code states: "A licensee shall issue a report which
23 conforms to professional standards upon completion of a compilation, review or audit of
24 financial statements."

25 13. Section 5060 of the Code states, in pertinent part:

26 "(a) No person or firm may practice public accountancy under any name which is
27 false or misleading.

28 "(b) No person or firm may practice public accountancy under any name other

1 than the name under which the person or firm holds a valid permit to practice issued by the
2 board.

3 "(c) Notwithstanding subdivision (b), a sole proprietor may practice under a name
4 other than the name set forth on his or her permit to practice, provided the name is registered by
5 the board, is in good standing, and complies with the requirements of subdivision (a). . . ."

6 14. Title 16, California Code of Regulations, section 58 (Board Rule 58)
7 provides that "licensees engaged in the practice of public accountancy shall comply with all
8 applicable professional standards, including but not limited to generally accepted accounting
9 principles and generally accepted auditing standards."

10 15. Title 16, California Code of Regulations, section 87 (Board Rule 87)
11 states, in pertinent part:

12 "(a) 80 Hours. As a condition of active status license renewal, a licensee shall
13 complete at least 80 hours of qualifying continuing education as described in Section 88 in the
14 two-year period immediately preceding license expiration, and meet the reporting requirements
15 specified in subsection (a) of Section 89. A licensee engaged in the practice of public
16 accountancy as defined in Section 5051 of the Business and Professions Code is required to hold
17 a license in active status. No carryover of continuing education is permitted from one two-year
18 license renewal period to another.

19

20 "(c) Accounting and Auditing Continuing Education Requirement. A licensee
21 who engages in planning, directing, performing substantial portions of the work, or reporting on
22 an audit, review, compilation, or attestation service, shall complete 24 hours of the 80 hours of
23 continuing education required pursuant to subsection (a) in the course subject matter specified in
24 this subsection. Course subject matter must pertain to financial statement preparation and/or
25 reporting (whether such statements are prepared on the basis of generally accepted accounting
26 principles or other comprehensive bases of accounting), auditing, reviews, compilations, industry
27 accounting, attestation services, or assurance services. This continuing education shall be
28 completed in the same two-year license renewal period as the report is issued. If no report is

1 issued because the financial statements are not intended for use by third parties, the continuing
2 education shall be completed in the same two-year license renewal period as the financial
3 statements are submitted to the client.

4 " (d) A licensee who must complete continuing education pursuant to subsections
5 (b) and/or (c) of this section shall also complete an additional eight hours of continuing education
6 specifically related to the detection and/or reporting of fraud in financial statements. This
7 continuing education shall be part of the 80 hours of continuing education required by subsection
8 (a), but shall not be part of the continuing education required by subsections (b) or (c). This
9 requirement applies to licensees who renew their licenses on or after July 1, 2005.

10

11 " (g) Failure to Comply. A licensee's willful failure to comply with the
12 requirements of this section shall constitute cause for disciplinary action pursuant to Section
13 5100(g) of the Accountancy Act."

14 16. Title 16, California Code of Regulations, section 89 (Board Rule 89)
15 states, in pertinent part:

16 " (c) If continuing education credit for attending a continuing education course is
17 claimed, the licensee shall obtain and retain for four years after renewal a certificate of
18 completion or its equivalent

19 " (d) If continuing education credit is claimed for completing a self-study course,
20 the licensee shall obtain and retain for four years after renewal a certificate of completion or its
21 equivalent

22

23 " (k) A licensee's willful making of any false or misleading statement, in writing,
24 regarding his or her continuing education shall constitute cause for disciplinary action pursuant to
25 section 5100(g) of the Accountancy Act."

26 COST RECOVERY

27 17. Section 5107(a) of the Code states:

28 "The executive officer of the board may request the administrative law judge, as

1 part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or
2 certificate found to have committed a violation or violations of this chapter to pay to the board all
3 reasonable costs of investigation and prosecution of the case, including, but not limited to,
4 attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

5 APPLICABLE PROFESSIONAL STANDARDS

6 18. Standards of practice pertinent to this Accusation and the engagement in issue
7 include, without limitation:

8 A. Generally Accepted Auditing Standards ("GAAS") issued by the American
9 Institute of Certified Public Accountants (AICPA). The ten GAAS (AU §150), which are
10 interrelated, are discussed in the Statements on Auditing Standards ("SAS"). The SAS are
11 codified, by "AU" number, in the AICPA's *Codification of Statements on Auditing Standards*.
12 Among the SAS relevant herein, in addition to AU §150 which sets forth the Generally Accepted
13 Auditing Standards and introduces the concepts of "materiality" and "audit risk," are: AU §311
14 (Planning and Supervision); AU §312A (Audit Risk and Materiality in Conducting an Audit);
15 AU §316A.83 (Documenting the Auditor's Consideration of Fraud); AU §319.83 (Documenting
16 the Assessed Level of Control Risk); AU §326A (Evidential Matter); AU §329 (Analytical
17 Procedures); AU §339A (Audit Documentation); AU §508 (Auditor's Report); and AU §560
18 (Subsequent Events).

19 B. Generally Accepted Accounting Principles ("GAAP"), derived from
20 various authoritative sources. AU §411 provides guidance to the auditor concerning the
21 "Meaning of 'Present Fairly in Conformity with GAAP.'" This guidance relates to the auditor's
22 duties under both GAAS and GAAP. AU §411.18 sets forth the "GAAP Hierarchy Summary."
23 GAAP relevant herein include, without limitation:

24 (1) Statements and Interpretations (SFAS or FAS) issued by the Financial
25 Accounting Standards Board¹ (FASB). FAS and APB Opinions (see paragraph (2) immediately
26

27 1. The FASB is the private sector organization which has been primarily responsible for
28 promulgating GAAP since 1973. Before the FASB, the Accounting Principles Board (APB)
issued opinions from 1959 through 1973.

1 following) are codified by topic in the AICPA's publication *Current Text*. These
2 pronouncements are the most authoritative source for GAAP. The statements pertinent herein
3 include, without limitation: SFAS No. 94-6 (Disclosure of Certain Significant Risks and
4 Uncertainties); SFAS No. 95 (Statement of Cash Flows); SFAS No. 109, paragraphs 43-45
5 (Financial Statement Disclosure); SFAS No. 115, paragraph 6 (Accounting for Certain
6 Investments in Debt and Equity Securities); SFAS No. 154, paragraph 25 (Correction of an Error
7 in Previously Issued Financial Statements); and SFAS No. 154, paragraph 26 (Disclosures).

8 (2) Statements issued by the Accounting Principles Board² of the AICPA,
9 including *APB No. 12* (Classification & Disclosure of Allowances, etc.).

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Gross Negligence: Business and Professions Code § 5100(c))**

12 19. Respondent McEwan performed an audit of the financial statements for
13 Monterey County Association of Realtors (Association) for the year ended June 30, 2006 in a
14 grossly negligent manner. Respondent McEwan issued the auditor's report on or about
15 September 7, 2006. The audit engagement was required to be performed in accordance with
16 GAAS and GAAP, which constitute the standard of practice in the State of California.³

17 20. Respondent McEwan's gross negligence included the following extreme
18 departures from GAAS:

19 **Auditor's Report**

20 A. Respondent McEwan's report failed to indicate the degree of responsibility
21 Respondent is taking for the cash flow statement presented with the Association's financial
22 statements (AU §150).

23 B. Respondent McEwan's report failed to specifically identify each financial
24 statement audited in its introductory paragraph (AU §508.06).

25
26 2. See footnote 1.

27 3. Board Rule 58 provides that licensees of the Board engaged in the practice of
28 accountancy shall comply with all applicable professional standards, including but not limited
to generally accepted accounting principles and generally accepted auditing standards.

1 C. Respondent McEwan's report omitted required language regarding the
2 nature of the audit performed, including a statement that the audit was conducted in accordance
3 with GAAS of the United States. (AU §508.08).

4 D. Respondent McEwan failed to modify her report for the following
5 departures from GAAP:

6 i. The Association's use of estimates was not disclosed (SOP 94-6,
7 paragraph 11);

8 ii. Cash paid for interest and income tax was not disclosed (SFAS 95,
9 paragraph 29);

10 iii. The Association's investments were not classified by type and disclosures
11 related to the classifications were not presented (SFAS 115, paragraph 6);

12 iv. The net deferred tax liability was not disclosed (SFAS 109, paragraph 43);

13 v. The significant components of income tax attributable to continuing
14 operations were not disclosed (SFAS 109, paragraph 45);

15 vi. Prior period adjustments were not disclosed (SFAS 154, paragraph 25);

16 and

17 vii. The restatement of the Association's previously issued financial statements
18 due to error was not disclosed or described (SFAS 154, paragraph 26).

19 **Audit Documentation**

20 E. Respondent McEwan failed to adequately plan and document her audit
21 procedures, including obtaining a sufficient understanding of the Association, assessing the risk
22 of material misstatement of the financial statements due fraud, and assessing control risk
23 (AU §150; AU §311.04; AU §311.06; AU §316A.83; AU §319.83; AU §329.01; AU §329.06
24 and AU §339A.04).

25 F. Respondent McEwan failed to obtain sufficient appropriate audit evidence
26 by performing and documenting audit procedures to afford a reasonable basis for an opinion
27 regarding the financial statements under audit, to obtain and evaluate evidential matter
28 concerning the assertions in the financial statements, to develop specific audit objectives in light

1 of those assertions, and to provide audit documentation sufficient to show that the standards of
2 fieldwork were observed (AU §150; AU §312A.25; AU §326A.02; AU §326A.03;
3 AU §326A.09; AU §339A.04; AU §560.10-12).

4 5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Failure to Issue Report Conforming to Professional Standards:**

7 **Business and Professions Code §§ 5100(g) and 5062)**

8 21. Incorporating by reference the allegations in paragraphs 19 and 20, cause
9 for discipline of Respondent McEwan's license is established under Code section 5100(g), in that
10 Respondent McEwan's auditor's report does not conform to professional standards, as required by
11 Code section 5062.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Violation of Professional Standards:**

14 **Business and Professions Code § 5100(g) and Board Rule 58)**

15 22. Incorporating by reference the allegations in paragraphs 19 and 20, cause
16 for discipline of Respondent McEwan's license is established under Code section 5100(g) in
17 conjunction with Board Rule 58 in that Respondent McEwan's failures constitute multiple willful
18 violations of applicable professional standards.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Continuing Education Basic Requirements:**

21 **Business and Professions Code § 5100(g) and Board Rule 87)**

22 23. Cause for discipline of Respondent McEwan's license is established under
23 Code section 5100(g) in conjunction with Board Rule 87 in that Respondent McEwan failed to
24 comply with the accounting and auditing continuing education requirement. The circumstances
25 are set forth in paragraph 19, below.

26 24. On or about March 25, 2006, Respondent McEwan submitted her
27 application for license renewal, stating therein that she had primary responsibility for and
28 authority to sign accountant's reports on financial statements during the two-year period

1 preceding the renewal expiration date of March 31, 2006. The courses listed as supporting her
2 renewal application, however, did not comply with the Board's continuing education requirement
3 because Respondent McEwan did not complete eight hours in course work specifically related to
4 the detection and/or reporting of fraud in financial statements.

5 **FIFTH CAUSE FOR DISCIPLINE**

6 **(Control and Reporting: Business and Professions Code § 5100(g) and Board Rule 89)**

7 25. Cause for discipline of Respondent McEwan's license is established under
8 Code section 5100(g) in conjunction with Board Rule 89 in that Respondent McEwan failed to
9 retain documentation supporting the continuing education hours claimed on her renewal
10 applications for the renewal periods ending March 31, 2006 and March 31, 2008. The
11 circumstances are set forth in paragraphs 21 and 22, below.

12 26. For the renewal period ending March 31, 2006, Respondent McEwan
13 provided certificates of completion for only 46 of the required 80 hours of continuing education
14 course work. In addition, Respondent McEwan failed to provide evidence of the completion of
15 an eight-hour ethics course and an eight-hour fraud course, and provided evidence of the
16 completion of only 5 hours of the required 24 hours of course work in accounting and auditing.

17 27. For the renewal period ending March 31, 2008, Respondent McEwan
18 failed to provide evidence of the completion of an eight-hour course in a fraud-related subject.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **(Name of Firm: Business and Professions Code §§ 5100(g) and 5060)**

21 28. Cause for discipline of Respondent McEwan's license is established under
22 Code section 5100(g) in conjunction with Code section 5060 in that Respondent McEwan failed
23 to register the firm names of McEwan and Associates Certified Public Accountants and McEwan
24 & Associates, Inc. with the Board while engaging in the practice of public accountancy as
25 defined by Code section 5051. The circumstances are set forth in paragraphs 24 and 25, below.

26 29. From on or about November 8, 2007 to on or about March 11, 2008,
27 Respondent McEwan's website advertised public accountancy services in the name of McEwan
28 and Associates Certified Public Accountants. The firm name of McEwan and Associates

1 Certified Public Accountants has never been registered with the Board.

2 30. The firm name of McEwan & Associates, Inc. was not registered with the
3 Board until on or about May 15, 2008. Respondent McEwan, however, has been practicing
4 under the firm name of McEwan & Associates, Inc. since at least on or about April 21, 2006.

5 **OTHER MATTERS**

6 31. Pursuant to Code section 5107, it is requested that the administrative law
7 judge, as part of the proposed decision in this proceeding, direct Respondents to pay to the Board
8 all reasonable costs of investigation and prosecution in this case, including, but not limited to,
9 attorneys' fees.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

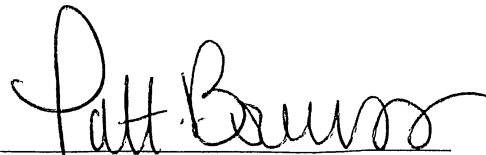
13 1. Revoking or suspending or otherwise imposing discipline upon Certified
14 Public Accountant Certificate Number CPA 34741, issued to Deborah May McEwan;

15 2. Revoking or suspending or otherwise imposing discipline upon
16 Corporation Certificate Number COR 6096, issued to McEwan & Associates, Inc.;

17 3. Ordering Deborah May McEwan and McEwan & Associates, Inc. to pay
18 the California Board of Accountancy the reasonable costs of the investigation and enforcement of
19 this case, pursuant to Business and Professions Code section 5107; and

20 4. Taking such other and further action as deemed necessary and proper.

21
22 DATED: August 24, 2009

23
24 

25 PATTI BOWERS
26 Executive Officer
27 California Board of Accountancy
28 Department of Consumer Affairs
State of California
Complainant